

EXHIBIT 2

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Attorneys for Defendant: Otto Trucking LLC

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

Waymo LLC,

Plaintiff,

v.

Uber Technologies, Inc.; Ottomotto LLC; Otto
Trucking LLC,

Defendants.

Case No. 3:17-cv-00939-WHA

**OTTO TRUCKING'S SUPPLEMENT TO
ITS MOTION FOR SUMMARY
JUDGMENT**

Courtroom: 8 (19th Floor)
Judge: Hon. William Alsup
Trial Date: October 10, 2017

1 Defendant Otto Trucking LLC (“Otto Trucking”) respectfully submits the following
2 Supplement to its Motion for Summary Judgment in light of deposition testimony from Lior Ron,
3 and in response to arguments made by counsel for plaintiff Waymo LLC at the hearing held on
4 September 20, 2017.

5 At the hearing on Otto Trucking’s motion for summary judgment, counsel for Waymo
6 argued that the Stroz report suggested access to protected materials by Anthony Levandowski after
7 February 1, the date on which Otto Trucking was formed. *See* Declaration of Neel Chatterjee in
8 Support of Otto Trucking’s Supplement to its Motion for Summary Judgment, Ex. 1, 9/20/17
9 Hearing Tr., at 60:1-62:5; *see also* Ex. 2 (Lior Ron Rough Tr.) at 374:13-16. The Court asked
10 certain questions relating to whether Mr. Levandowski was wearing his “Otto Trucking hat” when
11 he is alleged to have access those materials. *See id.* at Ex. 1, 9/20/17 Hearing Tr., at 63:8-18.

12 Mr. Lior Ron, Otto Trucking’s Chief Executive Officer and General Manager, was
13 deposed again yesterday. His testimony makes clear that Mr. Levandowski was not wearing any
14 such “hat” at that time, because neither Otto Trucking, nor its subsidiary Otto Transport LLC, was
15 engaging in any research and development activities relating to LiDAR:

16 • Q. What is Otto Trucking LLC?

17 A. Otto Trucking LLC is an entity that was formed to hold the interest of the Otto
18 Trucking shareholders or members in a potential trucking or logistics business at
19 Uber. *Id.* at Ex. 2 at 374:8-12.

20 • Q. So between the time that Otto Trucking was formed, I think you
21 testified earlier around February 2016, and the time that -- let's say, August 2016,
22 did either Otto Trucking or Otto Transport do any R&D activity with respect to
23 LiDAR systems?

24 A. No. Those entities did not engage in any LiDAR activities, nor did they have
25 any employees throughout those months. *Id.* at Ex. 2 at 380:15-23.

26 • Q. So between the time that Otto Trucking was formed, you testified
27 earlier February 2016, and the date of this agreement, April 6th, 2016, what was
28 the business of Otto Trucking, if any?

MR. CHERNY: Objection; leading.

THE WITNESS: It was basically a legal holding company that we've formed for

1 potentially engaging in trucking business activity in the future. But Otto Trucking
2 LLC did not have any R&D activities or any employees at the time.

3 Q. So during the same time period that I just asked about in my prior question, did
4 Otto Trucking do any work on developing any LiDAR systems?

5 MR. CHERNY: Objection; leading.

6 THE WITNESS: No, I don't believe so. As I said before, Otto Trucking didn't
7 have any employees, didn't engage in any R&D activities and, as pertains to both,
8 didn't have any LiDAR activity whatsoever." *Id.* at Ex. 2 at 376:12-377:6.

9 • Q. And what is Otto Transport LLC?

10 A. I think Otto Transport LLC was an entity we formed to hold some of the self-
11 driving trucks, so the trucks that Otto Trucking had or that Otto Trucking leased.
12 *Id.* at Ex. 2, 377:16-20.

13 For these reasons, and for the reasons stated in Otto Trucking's motion, reply and
14 accompanying papers, Otto Trucking respectfully requests that the Court grant its motion
15 for summary judgment.

16 Dated: October 3, 2017

Respectfully submitted,

17 By: /s/ Neel Chatterjee

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CERTIFICATE OF SERVICE

I hereby certify that I electronically filed the foregoing document with the Clerk of the Court for the United States District Court for the Northern District of California by using the CM/ECF system on **October 3, 2017**. I further certify that all participants in the case are registered CM/ECF users and that service of the publicly filed document will be accomplished by the CM/ECF system.

I certify under penalty of perjury that the foregoing is true and correct. Executed on **October 3, 2017**.

/s/ Neel Chatterjee
NEEL CHATTERJEE